

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, MAY 27, 2008

The meeting of the State Properties Committee was called to order at 10:03 a.m. by Chairman Kevin M. Flynn. Other members present were Robert Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; Robert W. Kay and John A. Pagliarini, Jr., Public Members and Xaykham Khamsyvoravong representing the Rhode Island Office of the General Treasurer, Ex-officio Member. Others in attendance were Anthony Paolantonio from the Rhode Island House of Representatives; Amy Mendillo from the Rhode Island Senate Fiscal Office; Richard Kalunian and Maureen McMahon from the Rhode Island Department of Transportation; Lisa Primiano, Mary E. Kay and John Faltus from the Rhode Island Department of Environmental Management; Kartik Naram from the Rhode Island Office of the General Treasurer; Marco Schiappa, Michael D. Mitchell, Silvia Ponce and Mary Ellen Davey from the Rhode Island Department of Administration; Mercedes Monteiro from the Rhode Island Historical Preservation & Heritage Commission; Edward Feldstein from the law firm of Roberts, Carroll, Feldstein & Peirce, Inc.; Sean Coffey from the law firm of Burns & Levinson, LLP and David A. Cohen from Tidewater Realty, LLC.

Chairman Flynn noted for the record that the State Properties Committee did have a quorum present.

The State Properties Committee deferred approval of the May 13, 2008, meeting minutes to the June 10, 2008, due to technical difficulties with the recording equipment.

The next scheduled meeting of the State Properties Committee will be held on

Tuesday, June 10, 2008, at 10:00 a.m.

ITEM A – Department of Environmental Management – A request was made for approval of and signatures on an Easement Agreement by and between the City of East Providence and the Department of Environmental Management for access from Pleasant Street to construct, maintain and operate a fishway at Hunt's Mill Dam in the City of East Providence. Ms. Primiano explained that the first two requests on the agenda are related items. The Department of Environmental Management is seeking approval of two Easement Agreements for two small parcels of land owned by the City of East Providence. Said Easement Agreements are part of a major fish ladder installation project being completed by the Department of Environmental Management along the Ten Mile River. Ms. Primiano indicated that this project is one of the Department's primary fish restoration efforts. Ms. Primiano indicated that there are actually three properties involved in this project; the Hunt's Mill Dam, the Turner Reservoir Dam and the Omega Dam; however, the Department of Environmental Management is currently working out the details with regard to the Omega Dam property. Ms. Primiano indicated that the two Easement Agreements before the State Properties Committee

today include construction easements and permanent maintenance easements on the fishway. Ms. Primiano indicated that the Department of Environmental Management used the standard form agreement in preparing the Easement Agreements. Ms. Primiano noted that the construction project will be funded primarily by the Army Corps of Engineers with some match money from the State of Rhode Island, which will be provided through real estate easement transactions and the Narragansett Bay Restoration Bond, which was passed in 2004. Ms. Primiano indicated that all the funding for the project is in place and the total cost will be approximately \$3 million dollars. The Department of Environmental Management anticipates that construction of the fishway will commence this summer (2008). It will begin with the Turner Reservoir Dam, then Hunt's Mill Dam and finally the Omega Dam. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM B – Department of Environmental Management – A request was made for approval of and signatures on an Easement Agreement by and between the City of East Providence and the Department of Environmental Management for access from Quarry Street to construct, maintain and operate a fishway at Turner Reservoir Dam in the City of East Providence. A motion was made to approve by Mr. Griffith and seconded by Mr. Kay.

Passed Unanimously

ITEM C – Department of Environmental Management – A request was made for approval of and signatures on a Conservation Easement by

and between the South Kingstown Land Trust and the Department of Environmental Management over twenty-two (22) acres of land located on Green Hill Beach Road in the Town of South Kingstown. Ms. Primiano illustrated the location of the subject property using a site map. Ms. Primiano stated that the property is being acquired by the South Kingstown Land Trust using funds from The Nature Conservancy. The Department of Environmental Management will acquire a conservation easement over the property at no cost to the State of Rhode Island. Ms. Primiano indicated that the South Kingstown Land Trust has agreed to manage the subject property consistent with the other State-owned properties in the area. Mr. Kay noted that there is a rather large discrepancy between the assessed value and the final negotiated price of the subject property. Ms. Primiano explained that the subject property contains wetlands and there is some question as to what portion of the property is developable. Ms. Primiano indicated that is the reason for the discrepancy in values. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM D – Department of Environmental Management – A request was made for approval of and signatures on a Purchase and Sale Contract for the purchase of Development Rights over fifteen (15) acres of land known as Mathewson Farm located along Greenville Avenue in the Town of Johnston. Ms. Primiano presented photographs of the subject property and explained that Mathewson Farm was built in the mid 1700s and has been owned by the same family since that time.

However, the farm has been through an evolution of different farming practices. Ms. Primiano stated that presently a portion of the farm is leased out to grow organic vegetables as part of a Community Supported Agriculture (“CSA”). Ms. Primiano noted that another portion of the farm is utilized as hay fields. Ms. Primiano explained that when the Department of Environmental Management initially approached the landowner about the property, she offered to donate the land to the Department. However, Ms. Primiano explained that before the land was conveyed to the Department of Environmental Management, the owner passed away and the land was inherited by a number of family members. Although most of the family members agreed to donate that land, one family member had some reservations about donating the property. Therefore, as the Department of Environmental Management believes the subject property is an important historic farm, it agreed to pay \$100,000 for the property. Ms. Primiano indicated that a portion of the property is actively farmed at this time and the Department anticipates that the entire parcel will be farmed at some time in the future. Mr. Pagliarini asked whether the Department of Interior prohibits development of the property as it is listed on the National Register of Historic Places. Ms. Primiano indicated that although the farmhouse is listed on the National Register of Historic Places, the land could be developed. Ms. Primiano indicated that the subject property could potentially be divided into fourteen (14) house lots. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM E – Department of Environmental Management – A request was made for approval of and signatures on a Deed to Conservation Easement by and between Ernest Bugnet and the Department of Environmental Management over sixty-six (66) acres of land located on New London Turnpike in the Town of West Greenwich. Ms. Primiano explained that the Department of Environmental Management has proposed that the subject property be protected through the U.S. Forest Service's Forest Legacy Program. Ms. Primiano indicated that the Forest Legacy Program is designed to protect land utilized for traditional forest uses. Ms. Primiano illustrated the location of the subject property and described the surrounding area using a site map. Ms. Primiano indicated that Mr. Bugnet has been a tree farmer for many years and his property is one of the Department of Environmental Management's highest scoring forest projects. The Department was able to secure nearly all of the funding through the Forest Service Program; however, the Department of Environmental Management will be contributing \$9,000 toward the total purchase price of \$600,000. Ms. Primiano indicated that the appraised value of the Conservation Easement is \$820,000. A motion to approve was made by Mr. Pagliarini and seconded by Mr. Griffith.

Passed Unanimously

ITEM F – Department of Environmental Management – A request was made for approval of and signatures on a License Agreement between the Department of Environmental Management, Caswell Cooke and the Misquamicut Business Association for the 4th Annual

Misquamicut Music Festival to be held at Misquamicut State Beach in the Town of Westerly on Saturday, July 26, 2008, with a rain date of Sunday, July 27, 2008. Mr. Faltus explained that this is an annual request to hold the Misquamicut Music Festival on the grounds of Misquamicut State Beach in the Town of Westerly. Mr. Faltus indicated that for the past two years this event has been affiliated with Governor Carcieri's Bay Day celebration. Mr. Faltus noted that there have been no problems associated with this event. Mr. Faltus indicated that the certificate of insurance contained in the presentation packet is on file with the Department of Environmental Management from last year's event. Mr. Cooke is in the process of securing the appropriate insurance coverage for 2008, and has provided the Department with a letter from his insurance agent, Louis Panciera, Inc., dated May 23, 2008, which indicates that they will provide the Department of Environmental Management with the necessary certificate of insurance and endorsement for 2008. Therefore, Mr. Faltus respectfully requested that the License Agreement be approved subject to the submission of the necessary certificate of insurance and endorsement. A motion was made to approve subject to the submission of the necessary certificate of insurance and endorsement by Mr. Woolley and seconded by Mr. Pagliarini.

Passed Unanimously

ITEM G – Department of Environmental Management – A request was made for approval of and signatures on a License Agreement by and between the Department of Environmental Management and Eugene

J. Pezzulli / Autos of the World, Inc. to hold a charitable auto show at Goddard Memorial State Park from Friday, July 25, 2008, through Sunday, July 27, 2008. Mr. Faltus explained that this request has also evolved into an annual event. Mr. Faltus indicated that Mr. Pezzulli holds the auto show to raise money for various charities such as St. Jude Children's Research Hospital and the Make a Wish Foundation among others. There have been no problems associated with this event in the past. Mr. Faltus indicated that the Certificate of Insurance contained in the packet has been on file with the Department of Environmental Management from last year's event. Mr. Pezzulli is in the process of securing the appropriate insurance coverage for 2008. Therefore, Mr. Faltus respectfully requested that the License Agreement be approved subject to the submission of the necessary certificate of insurance and endorsement. A motion was made to approve subject to the submission of the necessary certificate of insurance and endorsement by Mr. Woolley and seconded by Mr. Kay.

Passed Unanimously

ITEM H – Department of Environmental Management – A request was made for approval of and signatures on a Quit Claim Deed, an Assignment and Assumption of Lease and a Discharge and Termination of Lease by and between the Department of Environmental Management and Tidewater Realty, LLC relative to property located at 242 Allens Avenue in the City of Providence. Mr. Mitchell explained that pursuant to a Consent Order dated May 16, 2008, in the matter of Tidewater Realty, LLC v. State of Rhode Island,

et al, C.A. No. 05-3316, the State Properties Committee is required to execute a Quit Claim Deed conveying the subject property to Tidewater Realty, LLC. Mr. Mitchell explained that the subject property was sold in 2005, and the sale was duly approved by the State Properties Committee. The property was sold to the City of Providence through the Providence Redevelopment Agency; however, the Supreme Court later found that the sale of the property to the Providence Redevelopment Agency is null and void. The State of Rhode Island was paid in full for the property in 2005. Mr. Mitchell indicated that there are no additional funds due and owing to the State of Rhode Island, nor is the State transferring any funds back to the Providence Redevelopment Agency. Tidewater Realty, Inc. will pay the Providence Redevelopment Agency and the transfer will then be recorded. After reviewing the Supreme Court Decision, Chairman Flynn's asked if the Court found the sale "null and void" because it believed the property did not meet the standards for "blighted and substandard" areas or other somewhat archaic terms contained in the statute regarding use of eminent domain. Mr. Mitchell indicated that he believes the Court found the sale null and void as a result of its technical interpretation of the Providence Redevelopment Agency's Enabling Statute, which was never an issue before the State Properties Committee. Mr. Mitchell noted that the Providence Redevelopment Agency Enabling Statute is an issue addressed by the Court; not an issue that State-agencies are required to address. Mr. Woolley indicated that the settlement agreement in this matter reserves the right of either party to pursue further litigation with

respect to attorney's fees and costs. Mr. Mitchell agreed that other legal issues may be disputed; however, the Department of Environmental Management is before the State Properties Committee today merely correct the title issue. Mr. Woolley stated that there are really no options in view of the Supreme Court Decision and indicated that the documents are appropriate to be executed by the State Properties Committee. Mr. Pagliarini indicated that as there is a deed on record transferring the property from the State of Rhode Island to Providence Redevelopment Agency, there should be a document recorded so that someone following the chain of title will not be confused by the recording of a second deed. Mr. Mitchell explained that the recorded Quit Claim Deed will have a certified copy of the Consent Order attached to it. Mr. Mitchell indicated that the Department of Environmental Management is seeking approval and execution of the Quit Claim Deed, the Assignment and Assumption of Lease and the Discharge and Termination of Lease to satisfy Tidewater Realty, Inc.'s title company. A motion was made to approve by Mr. Pagliarini and seconded by Mr. Kay.

Passed Unanimously

ITEM I – Department of Administration – A request was made for approval of and signatures on a License Agreement by and between the Department of Administration and the Rhode Island Historical Preservation & Heritage Commission for use of the State House Grounds on Saturday, September 20, 2008, to hold the 31st Annual Heritage Festival with a rain date of Sunday, September 21, 2008. Ms. Monteiro explained that the Rhode Island Historical Preservation &

Heritage Commission has held this event for the past thirty-one (31) years. Ms. Monteiro indicated that approximately fifteen groups participate in this event, which celebrates different ethnic cultures and their traditions. The participants dress in costume or regalia when available; showcase their foods, music and arts and crafts. Ms. Monteiro indicated that a stage is erected from which musicians play music from all over the world throughout the day. Ms. Monteiro noted that the event includes a children's tent under which everything is free to the public. The festival begins at approximately 12:00 p.m. until 6:00 p.m. Ms. Monteiro indicated that as the festival takes place on a Water Fire celebration date this year, the Rhode Island Historical Preservation & Heritage Commission is hoping the festival can be advertised in conjunction with Water Fire as attendance has diminished over the last few years. Ms. Schiappa noted that the Rhode Island Historical Preservation & Heritage Commission is seeking a waiver of the standard fees for use of the State House Grounds. The fees have been waived for the past thirty one (31) years. Chairman Flynn asked the amount of the fees charged. Mr. Schiappa indicated that the current fee, based upon the new fee schedule, is \$750.00 as well as a damage deposit fee in the amount of \$10,000. Mr. Pagliarini asked if the fees are waived for other State-agencies. Mr. Schiappa indicated that this is the only event that the Department of Administration has traditionally waived the standard fees; however, Mr. Schiappa indicated that other State agencies do not typically request a waiver of the fees. Ms. Monteiro explained that this event is open to the public at no cost. The Rhode

Island Historical Preservation & Heritage Commission does not realize any revenue from this event and in fact the Commission incurs expenses as a result of the festival. Mr. Woolley asked if a certificate of insurance has been submitted to the State Properties Committee. Ms. Monteiro indicated that the certificate of insurance will not be available until August 1, 2008. Therefore, the Rhode Island Historical Preservation & Heritage Commission respectfully requests that the License Agreement be approved subject to the submission of the necessary certificate of insurance to the State Properties Committee. Mr. Pagliarini asked under what authority the Department of Administration is waiving the standard fees. Mr. Schiappa indicated that he is asking the State Properties Committee to waive the standard fees. Mr. Pagliarini asked under what authority the State Properties Committee can waive the standard fees. Mr. Schiappa indicated that it is his understanding the State Properties Committee is the body that determines appropriate reimbursement to the State of Rhode Island. Mr. Woolley believes that there is something contained in the Rules and Regulations of the State Properties Committee that gives the Committee discretion and flexibility regarding waiving and/or reducing fees. A motion was made to approve subject to the submission of the appropriate certificate of insurance and endorsement to the State Properties Committee. The motion passed four (4) votes "Aye" to one (1) vote "Nay".

Four (4) votes "Aye"

Mr. Woolley

Mr. Griffith

Mr. Kay

Chairman Flynn

One (1) vote “Nay”

Mr. Pagliarini

ITEM J – Department of Corrections – A request for permission to waive the Request for Proposals process relative to office space located in the Newport/Middletown area for the Adult Probation and Parole Office. This item was deferred to the June 10, 2008, meeting of the State Properties Committee.

ITEM K – Department of Transportation – A request for approval of and signatures on transfer documents by and between the Department of Transportation and the Rhode Island Economic Development Corporation for the transfer of property located at the southern corner of Post and Gate Roads in the Town of North Kingstown. This item was deferred to the June 10, 2008, meeting of the State Properties Committee.

The Committee moves to go into Executive Session, pursuant to Rhode Island General Law 42-46-5(a)(5) for the specific purpose of discussion or consideration related to the acquisition or lease of real property for public purpose, or of the disposition of publicly held property wherein advanced public information would be detrimental

to the interest of the public.

A motion was made to enter into Executive Session by Mr. Griffith and seconded by Mr. Kay. A roll call vote was taken and the votes were as follows: Mr. Griffith voted “Aye”, Mr. Pagliarini voted “Aye”; Mr. Woolley voted “Aye”, Mr. Kay voted “Aye”, and Chairman Flynn voted “Aye”.

ITEM E1 – Department of Transportation – A request was made for authorization to pay additional compensation to Stephen L. and Jane A. Mainella d/b/a Atlantic Marine relative to Condemnation Plat 2693 for the replacement of Barrington Bridge No. 123 in the Town of Barrington. After discussion in Executive Session, a motion was made to approve by Mr. Kay and seconded by Mr. Griffith. The motion passed four (4) votes “Aye” to one (1) vote “Nay”.

Four (4) votes “Aye”

Mr. Kay

Mr. Griffith

Mr. Woolley

Mr. Pagliarini

One (1) vote “Nay”

Chairman Flynn

ITEM E2 – Department of Transportation – A request was made for approval to proceed with the acquisition of new temporary easements by virtue of Condemnation Plat 2633A for the reconstruction of Hartford Avenue / I-295 to Atwood Avenue located in the Town of Johnston. After discussion in executive session, a motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:05 a.m. A motion was made to adjourn by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

Holly H. Rhodes, Executive Secretary